

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/632,348	TANAKA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Marie R. Yamnitzky	1774	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's Amendment received 30 March 2004.
2. ☒ The allowed claim(s) is/are 34-41 (renumbered as 1-8, respectively).
3. ☒ The drawings filed on 30 August 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
|---|--|

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An informal examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The specification has been amended as follows:

In the last line of the paragraph beginning at page 49, line 17 (replacement paragraph received March 30, 2004): "di(9-phenylanthrylphenyl)adamantine" has been changed to --di(9-phenylanthrylphenyl)adamantane--.

In the second line of the paragraph beginning at page 56, line 2 (replacement paragraph received March 30, 2004): "benzothiazolylanthryl)" has been changed to --benzooxazolylanthryl--.

In the last line of the paragraph beginning at page 56, line 2 (replacement paragraph received March 30, 2004): "benzothiazolylanthrylphenyl)" has been changed to --benzooxazolylanthrylphenyl)--.

This communication is in response to Applicant's proposed Amendment under 37 CFR 1.116 received March 30, 2004. The amendment was submitted via fax with a postcard receipt showing the amendment was originally filed February 11, 2004. The original submission has not yet been scanned into the electronic file. For the communication received March 30, 2004, the examiner notes that the signature of applicant's representative appears only on the facsimile coversheet.

Applicant's amendment amends the specification, cancels all finally rejected claims and adds new claims 34-41. The issues raised in the final rejection are not applicable to the new claims. The examiner respectfully disagrees with applicant's arguments regarding the prior art rejection based on the patent to Suzuki et al. (US 5,420,351), but since the issue is moot, no further discussion is deemed necessary.

Regarding the interpretation of claim 37, with claims 38-40 dependent therefrom:

Claim 37 recites "each of  $R_1$  through  $R_8$  represent substituents including hydrogen". This language could be interpreted as requiring each of  $R_1$  through  $R_8$  to represent a substituent that comprises hydrogen. Alternatively, the language could be interpreted more broadly to mean that each of  $R_1$  through  $R_8$  may represent any substituent, and that the substituent may be hydrogen. The examiner interprets the claim language as having the broader meaning. The broader meaning is supported by specific compounds set forth in the original specification in which some of  $R_1$  through  $R_8$  represent hydrogen, and is supported by dependent claim 40 which sets forth a

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Markush group of substituents that lists some possible substituents that do not include hydrogen (e.g. "halogen" and "nitro group").

With respect to the examiner's amendment, the two changes to the paragraph beginning at page 56 are consistent with changes made to the paragraph by applicant in the amendment filed August 26, 2003. Compound 27 contains benzooxazole groups rather than benzothiazole groups.

Any inquiry concerning this communication should be directed to Marie R. Yamnitzky at telephone number (571) 272-1531. The examiner works a flexible schedule but can generally be reached at this number from 6:30 a.m. to 4:00 p.m. Monday, Tuesday, Thursday and Friday, and every other Wednesday from 6:30 a.m. to 3:00 p.m.

The current fax number for Art Unit 1774 is (703) 872-9306 for all official faxes. (Unofficial faxes to be sent directly to examiner Yamnitzky can be sent to (571) 273-1531.)

MRY  
April 22, 2004



MARIE YAMNITZKY  
PRIMARY EXAMINER

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